IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

JOHN EVERETT, Appellant, v. ROSS LAY, Respondent.	No. 32682-5-II (consolidated with No. 33162-4-II) UNPUBLISHED OPINION
BELL CONSUMERS, INC., Appellant, v. ROSS LAY, Respondent, RUNAR DEAN JOHNSON and LAVINA JOHNSON, husband and wife, aka Cutting Edge Enterprises, Appellants.	

QUINN-BRINTNALL, C.J. — The Internal Revenue Service (IRS) assessed federal tax liens against the real property of Runar D. and Lavina R. Johnson. In an effort to avoid these federal tax liens, the Johnsons transferred their real property, through a series of questionable

transactions, to Bell Consumers, Inc. (Bell Consumers). Through yet another questionable transaction, Bell Consumers transferred 10 percent of the real property to John Everett. Ultimately, the IRS sold the real property to Ross Lay at a federal tax foreclosure sale. In separate actions, Bell Consumers and Everett filed complaints to quiet title to the property, arguing that Lay had no right to it. But the trial courts concluded that neither Bell Consumers nor Everett had any right to the property. We affirm, but on a different ground.

FACTS

Background

The Johnsons owned about 10 acres of real property in Clallam County, Washington. By notice dated July 15, 1998, the IRS informed the Johnsons that they were being assessed unpaid taxes for 1993, 1994, and 1995, together with additional penalties, interest, and costs. On June 23, 1998, the Johnsons deeded the property to Cutting Edge Enterprises "for and in consideration of (21) Liberty u.S.A. [sic] Silver Dollars, plus corporate notes of undetermined value in hand paid." 3 Clerk's Papers (CP) (No. 32682-5-II) at 258.[1] Cutting Edge Enterprises describes itself as "[AN] UN-INCORPORATED FEDERAL BUSINESS ORGANIZATION IN THE FORM OF AN EXPRESS IRREVOCABLE PURE BUSINESS TRUST." 4 CP (No. 32682-5-II) at 408.

On the same day, Cutting Edge Enterprises leased the real property to the Johnsons for $100 per month on a month-to-month basis. Runar Johnson signed the lease for Cutting Edge Enterprises in his capacity as "Trustee" and the Johnsons signed the lease as lessees. 3 CP (No. 32682-5-II) at 265.

On July 20, 1998, the IRS filed its notice of federal tax lien on all property and rights to

[1] The records indicate that no excise tax was paid.

property belonging to the Johnsons for the 1993, 1994, and 1995 taxes, additional penalties, interest, and costs that might accrue.

On August 23, 2000, Cutting Edge Enterprises and Bell Consumers entered into a "REAL PROPERTY BILL OF EXCHANGE CONTRACT & AGREEMENT." 4 CP (No. 32682-5-II) at 439. Runar Johnson signed the contract for Cutting Edge Enterprises in his capacity as "executive trustee"; he also signed the contract for Bell Consumers identifying his capacity as "president." 4 CP (No. 32682-5-II) at 442. Thereafter, Cutting Edge Enterprises deeded the property to Bell Consumers "for and in consideration of (21) Liberty u.S.A. [sic] Silver Dollars, plus corporate notes of undetermined value in hand paid." 4 CP (No. 32682-5-II) at 436. Both the contract and the deed were later recorded on November 8, 2000.

On January 10, 2001, Bell Consumers and Everett entered into a "PRIVATE PROPERTY BILL OF EXCHANGE CONTRACT AND AGREEMENT." 4 CP (No. 32682-5-II) at 383. Bell Consumers deeded "complete and absolute ownership and control, in allodium, of 10 percent" of the property to Everett. 4 CP (No. 32682-5-II) at 383. Runar Johnson signed the contract for Bell Consumers in his capacity as "President." 4 CP (No. 32682-5-II) at 384. Neither of these documents was recorded.

On January 31, 2001, Lay purchased the property at a federal tax lien foreclosure sale. On the same day, the IRS quit claimed the property to Lay.

Bell Consumers v. Lay

On July 23, 2001, Bell Consumers filed a complaint to quiet title to the property. Essentially, Bell Consumers argued that Cutting Edge Enterprises "bought all right, title, and interest from the Johnsons" and that, in turn, Bell Consumers "purchased all right, title, and

interest from Cutting Edge Enterprises." 6 CP (No. 33162-4-II) at 767-68. Arguing that the federal tax lien was invalid and that Lay obtained no legal right to the property by purchasing it at the tax foreclosure sale, Bell Consumers moved for summary judgment.

Lay filed an answer and a counterclaim.[2] Lay asserted that the IRS awarded him the property at a federal tax lien foreclosure sale.

On January 30, 2004, after years of contentious litigation, including removal of the action to federal court on two separate occasions, Clallam County Superior Court Judge Wood filed his "Memorandum Opinion and Order" regarding the parties' respective summary judgment motions.[3] 2 CP (No. 33162-4-II) at 180. Among other things, the court found, "Bell Consumers, Inc. has neither appeared nor answered the third party complaint filed by Mr. Lay and is now in default." 2 CP (No. 33162-4-II) at 181. The court also found:

> Cutting Edge Enterprises is a unique entity, not in the form of any recognizable business organization. Its exact legal status is somewhat of a mystery. The "Contract of Indenture" dated December 29, 1997, asserts that Cutting Edge Enterprises is "un-incorporated" and claims its status is that of a "Federal Business Organization in the Form of an Expressly Irrevocable Pure Business Trust." The Contract of Indenture does not state whether it is a general partnership, a limited liability partnership, a sole proprietorship or a trust organized under the Washington Trust Act. It disclaims any corporate status. . . .
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> . . . .
>
> Mr. Johnson has signed the deeds and excise tax affidavits in connection with the transfers in question as the "Executive Trustee" of Cutting Edge Enterprises. As executive trustee he apparently has authority to transact business on behalf of the

[2] In his amended counterclaim and cross-claim, Lay alleges that the Johnsons, Cutting Edge Enterprises, and Bell Consumers are alter egos. Because the trial court did not resolve this issue, we have not addressed Lay's alter ego allegations. But we note that: (1) there is no evidence that the Johnsons ever lost control or possession of the property; (2) there is no evidence that the Johnsons ever paid rent to Cutting Edge Enterprises for use of the property; (3) Runar Johnson purported to act simultaneously as a "trustee" for Cutting Edge Enterprises and as the "president" of Bell Consumers; and (4) Runar Johnson was aware of the foreclosure sale.

[3] Although Lay filed a motion for judgment on the pleadings, under CR 12(c) the trial court treated it as a summary judgment motion.

> organization. . . . Cutting Edge Enterprises has neither appeared nor answered the third party complaint filed by Mr. Lay and is now in default.

2 CP (No. 33162-4-II) at 181-82. Therefore, the court stated:

> Based upon the aforesaid findings, Bell Consumers, Inc. and Cutting Edge Enterprises are currently in default. The Johnsons claim no interest in the property in question and therefore cannot cloud the title thereto either in their individual capacity or as representatives of Bell Consumers, Inc. Nor do the Johnsons have ability in the present case to vacate the bill of sale and quit claim deed issued as a consequence of the IRS lien. The Court has already addressed the tax lien matter as being beyond the jurisdiction of this Court. It is an exclusively federal issue. There being no material issues of fact, [Lay's] request to quiet title shall therefore be granted.

2 CP (No. 33162-4-II) at 183.

Ultimately, the court granted Lay's summary judgment motion and ordered that title to "the real property . . . shall be quieted in . . . Lay, as against all interests of . . . Bell Consumers, Inc., Cutting Edge Enterprises and Runar Dean Johnson and Lavina Johnson, husband and wife." 2 CP (No. 33162-4-II) at 185.

None of the parties appealed the court's decision. But almost a year later, on December 10, 2004, the Johnsons filed a petition to vacate the judgment under CR 60(b)(5). And on January 14, 2005, Bell Consumers filed a motion to vacate the default order and judgment under CR 55(c)(1), 60(b)(1) and (b)(5).

After hearing argument, the court denied the motions and awarded $500 sanctions to Lay. Bell Consumers later moved for reconsideration, but the court denied this motion as well.

Finally, Bell Consumers filed a notice of appeal. Essentially, Bell Consumers alleges that the trial court erred: (1) in denying its motion to vacate the default order and judgment; (2) in denying its motion for reconsideration; and (3) in granting sanctions to Lay.

Everett v. Lay

On February 3, 2004, Everett filed a "Petition to Vacate Void Sale and Vacate Void Judgment and Quiet Title." 2d Supp. CP (No. 32682-5-II) at 977. Essentially, Everett argued that the "bill of sale and quitclaim deed acquired by defendant Lay are null and void on the basis that the Johnsons had no interest in the 'Property' at the time of the auction and, as a matter of public record, had no interest in the 'Property' from June 22, 1998." 2d Supp. CP (No. 32682-5-II) at 979. Thus, Everett sought to vacate the order quieting title to the property in Lay, which the court had entered in *Bell Consumers, Inc. v. Lay* (Clallam County Superior Court Cause No. 01-2-00582-3).[4]

Before any motions were heard, the Clallam County court administrator noted, "Mr. Everett and Mr. Wolfley advised that Judge Wood is recused." 3d Supp. CP (No. 32682-5-II) at 1008. The Clallam County court administrator noted that the pending motions would be heard before Clallam County Superior Court Judge Williams.

Thereafter, Everett and Lay appeared before Judge Williams and argued several motions. After the arguments, the court stated, "What I will do, I have not read the prior litigation frankly at all, let alone in any detail. I am going to do that and sort through this and I will issue a written memorandum opinion when I can." Report of Proceedings (RP) (May 7, 2004, No. 32682-5-II) at 21.

But before Judge Williams issued his opinion, Everett filed a "Motion for Recusal of Judge Williams," claiming that the judge could not be a fair and impartial trier of facts. 6 CP (No.

[4] In his amended petition, Everett claims that he is "Chairman of the Board of Bell Consumers, Inc., hereinafter Bell[,] and is not appearing in a representative capacity but is appearing in plaintiff's own name." 6 CP (No. 32682-5-II) at 734.

32682-5-II) at 675. Citing RCW 4.12.050, Everett argued that his motion was timely because Judge Williams had not yet made any ruling.

Nevertheless, Judge Williams issued his opinion. Among other things, the court denied Everett's motion for recusal, stating:

> Because this matter had been submitted to this Court for a decision prior to the filing of the Motion for Recusal, the automatic recusal provisions of the statute are inapplicable. This Court knows of no other reason why it should be recused from hearing this case. This Court knows neither the Plaintiff nor the Defendant, nor has any business or property interests which would be impacted by the Court's potential scope of ruling in the cases submitted. This county has two superior court judges, one of whom has recused himself from further dealings in this matter. A recusal on the part of this judge would complicate and increase the costs to the parties in this litigation and unnecessarily complicate the proceedings. . . . The Motion for Recusal is denied.

5 CP (No. 32682-5-II) at 655-56. The court also stated, "A collateral attack cannot now be made in this proceeding." 5 CP (No. 32682-5-II) at 657. Finally, the court noted, "The issue before the Court will be the validity of the Plaintiff's claim of a 10% ownership in the property at issue. All other claims of other parties have been resolved with Mr. Lay owning and having title to the property subject only to the claims of Mr. Everett." 5 CP (No. 32682-5-II) at 657-58.

After hearing the parties' respective summary judgment motions, the court filed another "Memorandum Opinion" on November 24, 2004.[5] The court concluded:

> The timing of the transactions, the recitations of the excise tax paid by the parties, and the totality of the circumstances, compel this Court to conclude that the transfer by Bell Consumers Inc. to Mr. Everett, was of property in which Bell Consumer [sic] Inc. had no interest superior to that of the IRS. Mr. Everett was not a bona fide "purchaser" either - in that he had at least constructive notice of the federal liens. Accordingly, Mr. Everett's interest was extinguished by the foreclosure sale.

[5] Judge Williams signed the memorandum opinion, however, on March 19, 2004.

1 CP (No. 32682-5-II) at 95. Everett moved for reconsideration, but the court denied this motion as well. Thereafter, the court issued an order: (1) denying Everett's summary judgment motion; (2) granting Lay's summary judgment motion; and (3) quieting title to the property in Lay.

Finally, Everett appealed. Essentially, Everett alleges that the trial court erred: (1) in failing to recuse itself; (2) in granting Lay's motion for judgment on the pleadings; (3) in granting Lay's summary judgment motion; (4) in denying his summary judgment motion; and (5) in denying his motion for reconsideration.[6]

ANALYSIS

Bell Consumers v. Lay

Motion to Vacate and Motion for Reconsideration

Generally, we review a trial court's ruling on a motion to vacate a default judgment for an abuse of discretion. *Showalter v. Wild Oats*, 124 Wn. App. 506, 510, 101 P.3d 867 (2004). Similarly, we review a trial court's ruling on a motion to reconsider for an abuse of discretion. *See Aluminum Co. of Am. v. Aetna Cas. & Sur. Co.*, 140 Wn.2d 517, 537, 998 P.2d 856 (2000) (discussing CR 59 and standard of review); *Robinson v. Safeway Stores, Inc.*, 113 Wn.2d 154, 158, 776 P.2d 676 (1989) (trial court's order under CR 59(a) must stand absent an abuse of discretion).

But despite Bell Consumers' contentions, the facts of the present case do not require us to reach the issue of whether the trial court abused its discretion. It is a well-settled policy that we may sustain a court's judgment on any correct ground established by the pleadings and adequately

[6] Although we have included this section of the facts for completeness, we do not discuss Everett's assignments of error for the reasons set forth in our analysis.

supported by the evidence. *Mountain Park Homeowners Ass'n v Tydings*, 125 Wn.2d 337, 344, 883 P.2d 1383 (1994). In fact, we may sustain a court's judgment even though it did not consider the ground below. *Nast v. Michels*, 107 Wn.2d 300, 308, 730 P.2d 54 (1986); *see Pannell v. Thompson*, 91 Wn.2d 591, 603, 589 P.2d 1235 (1979) (where a judgment or order is correct it will not be reversed merely because the trial court gave wrong or insufficient reason for its rendition). Accordingly, our review of the pleadings and the evidence convinces us that the essential question in this case is whether a federal tax lien has priority over a purchaser who acquires an interest in property.[7]

Federal law controls the priority of a federal tax lien and a purchaser's interest in property. *Aquilino v. United States*, 363 U.S. 509, 80 S. Ct. 1277, 4 L. Ed. 2d 1365 (1960); *Gen. Elec. Credit Corp. v. Isaacs*, 90 Wn.2d 234, 237, 581 P.2d 1032 (1978); *Johnson Serv. Co. v. Roush*, 57 Wn.2d 80, 93-94, 355 P.2d 815 (1960).[8]

The applicable federal law is contained in the Internal Revenue Code (IRC). Section 6321 of the IRC provides for a lien for the taxes under consideration:

> If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, additional amount, addition to tax, or assessable penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such person.

26 U.S.C. § 6321.

Section 6322 of the IRC provides:

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[7] The validity of the tax lien, presumably an exclusively federal question, is not an issue in this case.

[8] Once the tax lien has attached to the taxpayer's state interests, we enter the province of federal law, which determines the priority of the tax lien against the taxpayer's "property" or "rights to property." *Aquilino*, 363 U.S. at 513-14.

> Unless another date is specifically fixed by law, the lien imposed by section 6321 shall arise at the time the assessment is made and shall continue until the liability for the amount so assessed (or a judgment against the taxpayer arising out of such liability) is satisfied or becomes unenforceable by reason of lapse of time.

26 U.S.C. § 6322.

Nevertheless, 26 U.S.C. § 6323 limits the effect of the lien granted by 26 U.S.C. §§ 6321 and 6322. *Gen. Elec*, 90 Wn.2d at 238. This section states that the tax lien "shall not be valid as against any *purchaser*, holder of a security interest, mechanic's lienor, or judgment lien creditor until notice thereof . . . has been filed." 26 U.S.C. § 6323(a) (emphasis added).[9]

The code also defines "purchaser":

> The term "purchaser" means a person who, for adequate and full consideration in money or money's worth, acquires an interest (other than a lien or security interest) in property which is valid under local law against subsequent purchasers without actual notice. In applying the preceding sentence for purposes of subsection (a) of this section . . .
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> **(A)** a lease of property,
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> **(B)** a written executory contract to purchase or lease property,
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> **(C)** an option to purchase or lease property or any interest therein, or
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> **(D)** an option to renew or extend a lease of property,
>
> which is not a lien or security interest shall be treated as an interest in property.

26 U.S.C. § 6323(h)(6).

In the present case, the IRS gave a notice of federal tax lien to the Johnsons:

> [T]axes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.

3 CP (No. 32682-5-II) at 273-74.

[9] Here, neither Cutting Edge Enterprises, Bell Consumers, nor Everett has asserted that they are holders of security interests, mechanic's lienors, or judgment lien creditors. Thus, we analyze the statute with respect to purchasers only.

For each of the tax periods ending 1993, 1994, and 1995, the IRS recorded the date of assessment as March 9, 1998. Thus, under controlling federal law, the federal tax lien attached to "all property and rights to property, whether real or personal, belonging to [the Johnsons]" *before* the Johnsons deeded the property to Cutting Edge Enterprises. 26 U.S.C. § 6321.

The Johnsons deeded the property to Cutting Edge Enterprises on June 23, 1998. The IRS did not *file* the notice of federal tax lien until July 20, 1998, and the plain language of 26 U.S.C. § 6323 limits the effect of the lien. If Cutting Edge Enterprises meets the definition of a purchaser, the lien imposed by 26 U.S.C. § 6321 is not valid as against it. Whether Cutting Edge Enterprises meets the definition of a purchaser depends on if it acquired an interest in the property for adequate and full consideration in money or money's worth. 26 U.S.C. § 6323(h)(6).[10]

For purposes of our analysis we assume, but do not hold, that Cutting Edge Enterprises acquired "an interest . . . in property which is valid under local law against subsequent purchasers without actual notice." 26 U.S.C. § 6323(h)(6). The record demonstrates that Cutting Edge Enterprises contracted to purchase the property before the IRS filed the tax lien.

Thus, we address whether Cutting Edge Enterprises acquired the property "for adequate and full consideration in money or money's worth." 26 U.S.C. § 6323(h)(6). As partly defined in 26 C.F.R. 301.6323(h)-1(f)(3), "[T]he term 'adequate and full consideration in money or money's worth' means a consideration in money or money's worth having a reasonable relationship to the true value of the interest in property acquired."

And, as partly defined in 26 C.F.R. 301.6323(h)-1(a)(3):

[T]he term "money or money's worth" includes money, a security . . ., tangible or

[10] Although the lower court did not consider whether Cutting Edge Enterprises was a purchaser, Lay referred to 26 U.S.C. §§ 6321, 6322, and 6323 in his complaint.

> intangible property, services, and other consideration reducible to a money value. Money or money's worth also includes any consideration which otherwise would constitute money or money's worth under the preceding sentence which was parted with before the security interest would otherwise exist if, under local law, past consideration is sufficient to support an agreement giving rise to a security interest. A relinquishing or promised relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights is not a consideration in money or money's worth. Nor is love and affection, promise of marriage, or any other consideration not reducible to a money value a consideration in money or money's worth.

Here, the Johnsons deeded the property to Cutting Edge Enterprises "for and in consideration of (21) Liberty u.S.A. [sic] Silver Dollars, plus corporate notes of undetermined value in hand paid."[11] 3 CP (No. 32682-5-II) at 258. The IRS set the minimum bid for the property at $32,940. And Lay purchased the property for that amount: $32,940.

Based on these facts, we conclude that Cutting Edge Enterprises did not purchase the property for "adequate and full consideration in money or money's worth." Under 26 C.F.R. 301.6323(h)-1(a)(3), the "corporate notes of undetermined value" cannot be reduced to a money value and cannot be considered as "money or money's worth." 26 C.F.R. 301.6323(h)-1(a)(3). In addition, 21 Liberty Dollars are worth less than $30. This value has no reasonable relationship to the property's true value, which was at least $32,940.[12]

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[11] According to http://www.libertydollar.org/html/faq.asp, the Liberty Dollar is:

> a warehouse receipt that guarantees that whoever is holding the currency has ownership to the silver stored in the insured warehouse. The $10 Certificate is backed by one Troy ounce of pure .999 fine silver, the $5 by a half-ounce and $1 by a tenth-ounce. The $500.00 gold certificate is backed by one ounce of pure .9999 fine gold.

[12] Because 10 Liberty Dollars are backed by one Troy ounce of pure .999 fine silver, 21 Liberty Dollars are backed by approximately two Troy ounces of pure .999 fine silver. According to http://www.kitco.com/charts/historicalsilver.html, the price for one ounce of silver during June 1998, was less than $6.00. Thus, the true value of the property acquired by Cutting Edge Enterprises is at least 1,000 times more valuable than the consideration paid to the Johnsons. This is not a reasonable relationship.

While Cutting Edge Enterprises may have sought to timely acquire an interest in the property, it did not acquire this interest "for adequate and full consideration in money or money's worth." 26 U.S.C. § 6323(h)(6). Therefore, Cutting Edge Enterprises is not a purchaser under 26 U.S.C. § 6323(h)(6) and its interest in the property is vulnerable to the federal tax lien.

Because Bell Consumers did not purchase its interest in the property until *after* the IRS had filed notice of the federal tax lien, 26 U.S.C. § 6323(a) and (h)(6) provide Bell Consumers no protection. Any interest in the property it acquired is vulnerable to the federal tax lien.

Because Everett did not purchase his interest in the property until *after* the IRS had filed notice of the federal tax lien, 26 U.S.C. § 6323(a) and (h)(6), likewise, provide him no protection.

Thus, the federal tax lien was valid as against: (1) the Johnsons; (2) Cutting Edge Enterprises; (3) Bell Consumers; and (4) Everett. None of these parties can claim an interest in the property superior to that which Lay purchased at the federal tax lien foreclosure sale.

For these reasons, we affirm the trial court's order quieting title to the property in Lay.

CR 11 Sanctions

We review a trial court's decision regarding CR 11 sanctions, including whether a sanction is warranted, the type of sanction, and the amount, for an abuse of discretion.[13] *Wash. State Physicians Ins. Exch. & Ass'n v. Fisons Corp.*, 122 Wn.2d 299, 339, 858 P.2d 1054 (1993). Abuse of discretion occurs when the court's order is manifestly unreasonable or based on untenable grounds. *Watson v. Maier*, 64 Wn. App. 889, 896, 827 P.2d 311, *review denied*, 120 Wn.2d 1015 (1992).

[13] We apply this standard of review because the court has "tasted the flavor of the litigation and is in the best position to make these kinds of determinations." *Miller v. Badgley*, 51 Wn. App. 285, 300, 753 P.2d 530 (quoting *Westmoreland v. CBS, Inc.*, 770 F.2d 1168, 1174 (D.C. Cir. 1985)), *review denied*, 111 Wn.2d 1007 (1988).

Bell Consumers argues that the court's award of $500 in sanctions to Lay is "without merit and unwarranted." Br. of Appellant Bell at 26. "The fact that the trial court did not accept [Bell Consumers'] argument . . . does not provide ground for imposition of sanctions under CR 11." Br. of Appellant Bell at 27.

In support of its motion to vacate the default order and judgment, Bell Consumers essentially argued that the default judgment was void for lack of subject matter jurisdiction. Bell Consumers stated:

> Defendant Lay, as third party plaintiff, alleged the transfer of the property at issue was fraudulent pursuant to the Uniform Fraudulent Transfer Act and asked the court to nullify that transfer and quiet title to him. . . . The court has statutory authority to nullify fraudulent conveyances pursuant to UFTA provided the party seeking the relief is a "creditor."

1 CP (No. 33162-4-II) at 147. Bell Consumers also argued that Lay did not meet the definition of a "creditor" under the UFTA, 1 CP (No. 33162-4-II) at 142, and that, "[a]bsent authority in law via subject matter jurisdiction the court is without authority to hear the UFTA claim. The court cannot create authority or subject matter jurisdiction where none exists." 1 CP (No. 33162-4-II) at 147.

But this argument was meritless. The trial court had jurisdiction over the parties and the subject matter, and it had the power to enter the judgment.[14] Moreover, when it imposed the sanctions, the court stated:

> . . . and I don't see anything today that tells me it was excusable that [Bell Consumers] exercised due diligence in not appearing and that for some reason they were prevented from appearing in the case and I don't think they have a meritorious defense. This is not a uniform transfer, Fraudulent Transfer Act.

[14] *See* Wash. Const. art. IV, § 6 ("The superior court shall have original jurisdiction in all cases at law which involve the title or possession of real property."). Notably, the trial court even stated, "This is an action in rem to quiet title." 2 CP (No. 33162-4-II) at 181.

> Under that the Court voids the transfer. The Court didn't void the transfer. The court said these people defaulted, these people have a title and superior to anybody else, so I quieted title. . . . I don't see any basis for these motions being made. I am going to grant sanctions although not $15,000. I'm going to grant sanctions for $500.00.

RP (January 21, 2005) at 22-23.

Here, the trial court's oral decision and its written order set out valid reasons to impose sanctions.[15] The trial court did not abuse its discretion in awarding $500 in sanctions to Lay.

Everett v. Lay

We do not reach Everett's assignments of error. Whether the court erred as Everett contends is immaterial because Everett did not legally purchase the property and was not entitled to relief from the lien.

Attorney Fees

We grant Lay's request for attorney fees in both appeals. For a determination of the fees, Lay must comply with RAP 18.1. But because we do not find the appeals wholly meritless, we decline to award additional CR 11 sanctions.

[15] Within its order awarding sanctions, the trial court also found that these matters were "entirely without merit, that no excusable neglect or due diligence has been shown, and that the imposition of sanctions is warranted." 1 CP (No. 33162-4-II) at 31.

Affirmed.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

QUINN-BRINTNALL, C.J.

We concur:

HUNT, J.

VAN DEREN, J.